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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Second periodic reports of States parties due in 1996

Addendum

CROATIA*

[2 March 1998]

* The initial report submitted by the Government of Croatia is contained in document CAT/C/16/Add.6; for its consideration by the Committee, see documents CAT/C/SR.253 and 254 and the Official Records of the General Assembly, Fifty-first Session, Supplement No. 44 (A/51/44, paras. 151-162).

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I. GENERAL INFORMATION

Introduction

1. Pursuant to article 19, paragraph 1, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Republic of Croatia submits its second periodic report on the implementation of the Convention.

2. After the initial report of the Republic of Croatia of 6 May 1996 and the recommendations adopted by the Committee against Torture (document CAT/C/SR.254. pp. 10-11), competent authorities of the Republic of Croatia have considered in great detail the said recommendations to develop efficient implementation of the Convention. Detailed information on the implementation of recommendations by the Committee against Torture are stated below in the section dealing with the implementation of specific provisions of the Convention.

3. Since the submission of the initial report of the Republic of Croatia, there have been a number of political and economic changes of great importance for the international position of the Republic of Croatia. As stated in the initial report, following nearly four years of unsuccessful negotiations, the Republic of Croatia in August 1995 undertook a comprehensive military-police operation to liberate previously occupied regions of the Republic of Croatia that were controlled by paramilitary formations of rebel Serbs. In the course of 1996, the Republic of Croatia took measures towards a better recovery of the liberated regions and enforcement of the state of security therein. These efforts included the additional deployment of 3,500 members of the police force, initiation of the project for reconstruction of destroyed facilities and the operation "Let's Save Lives" in cooperation with the International Federation of Red Cross and Red Crescent Societies and the Croatian Red Cross, for the purpose of developing better humanitarian, social and medical care for senior citizens in the region.

4. Pursuant to Security Council resolution 1037 (1995) of 15 January 1996, a United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) was established. The basic task of the Transitional Administration was reintegration of the remaining occupied parts of the Republic of Croatia into its constitutional and economic system in accordance with the Erdut Agreement of 12 November 1995, signed between the Republic of Croatia and representatives of the local authorities. The initial mandate of the Transitional Administration was to expire on 15 January 1997, but by virtue of subsequent Security Council resolutions, the mandate was prolonged until 15 January 1998. Local elections were held in the region under the Transitional Administration on 13 April 1997. Pursuant to the outcome of these elections, bodies of local administration and self-government were established, marking the beginning of the final phase of reintegration of the Croatian Podunavlje into the constitutional and legal system of the Republic of Croatia.

5. A further step towards the concrete establishment of long-term peace in the region was made under the Agreement on Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia dated

23 August 1996. This agreement denotes, among other things, measures to be taken with a view to enabling the return of refugees and displaced persons to their domicile or other places of their choice, declaring a general amnesty for all crimes committed in armed rebellion or armed conflicts, though excluding the most aggravated violations of human rights that are regarded as war crimes, as well as establishing diplomatic and consular relations between the two States at the embassy level. In view of the implementation of provisions under the said agreement, the Republic of Croatia has adopted the Law on General Amnesty that came into force on 5 October 1996. To date, the Law on General Amnesty has been applied to a total of 15,029 individuals of which 11,688 have domicile in the Croatian Podunavlje region.

6. The signing of the Dayton Agreement in November 1995, as the basis for establishing Bosnia and Herzegovina as a union of three constitutive nations and the holding of elections in September 1996, has created all the preconditions for the return of refugees from the territory of Bosnia and Herzegovina. This has resulted in the decline of the number of refugees residing in the Republic of Croatia. At present, there are 84,406 registered refugees in the territory of the Republic of Croatia.

7. The aforementioned liberation of most occupied regions has also created conditions for the initiation of the return of refugees to these regions. The Republic of Croatia is currently providing care for 134,303 refugees, some of whom are awaiting reconstruction of their destroyed homes, while for others, their final return is to regions that were until recently under the auspices of the Transitional Administration. By the end of 1997, it is expected that another 32,959 individuals will have returned to their homes.

8. On 6 November 1996, the Republic of Croatia became a member of the Council of Europe and, pursuant to accepted obligations, the State by the end of October 1997 ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and its additional Protocols (1950), the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987), as well as two regional instruments for protection of the rights of minorities - the Framework Convention for the Protection of National Minorities (1994) and the European Charter for Regional and Minority Languages (1992).

9. For more detailed information on the general political structure and the basic postulates of the legal system of the Republic of Croatia, please refer to the basic document of the Republic of Croatia (HRI/CORE/1/Add.32) and the introductory part of the initial report of the Republic of Croatia (CAT/C/116/Add.6, paras. 9-32).

Constitutional and legal framework

10. The Constitution of the Republic of Croatia dated 22 December 1990 endorses the principle of the separation of powers (art. 4). Furthermore, all laws have to be in accordance with the Constitution, whereas all other legal acts and regulations have to be in accordance with the Constitution and the laws of the Republic of Croatia. The Constitution also states the basic principle according to which human rights and freedoms can only be restricted by law with a view to securing the protection of freedom and rights of other people and public order, morality and health (art. 16).

11. Articles 14-70 of the Croatian Constitution regulate fundamental freedoms and human rights and basic principles regarding the rights of national and ethnic communities or minorities. The Constitution of the Republic of Croatia guarantees the following fundamental freedoms and human rights: the right to life (the Constitution has abolished the death penalty); the right not to be subjected to torture or inhuman or degrading treatment; the prohibition of slavery and forced labour; the right to freedom and security of person; the right to privacy, family life, home, marriage and the founding of a family and equal status of both spouses; the equal rights of men and women to enjoy civil, political, social and cultural rights; the right to freedom of thought and expression (censorship is prohibited); the right to peaceful assembly and association, including the right to establish and join trade unions; the right to work and free choice of employment; the right to equal salaries for the same job; the right to legal protection for acts that violate fundamental rights; the right to universal suffrage; the right to peaceful enjoyment of property; the right to inheritance; the right to education and cultural rights. These freedoms and rights can only be restricted by law adopted by the Croatian State Parliament (art. 16) during a state of emergency. The Croatian State Parliament can enforce these restrictions by means of a qualified majority vote by presidential decree (art. 17, paras. 1 and 2). However, the right to life, the prohibition of torture, cruel or degrading treatment or punishment, the principle nullum crimen, nulla poena sine lege previa and the freedom of thought, conscience and religion can never be derogated.

12. Pursuant to article 101, paragraph 1, of the Constitution of the Republic of Croatia, and upon the proposal of the Government of the Republic of Croatia, a number of decrees were adopted as a result of which the following three decrees adopted during the aggression on Croatia, have ceased to have effect:

(a) Decree on the Application of the Law on Criminal Procedure in the Case of a State of War or a Direct Threat to the Republic of Croatia (Official Gazette of the Republic of Croatia, 73/91 and 25/92);

(b) Decree on the Organization, Work and Structure of Judicial Authorities in the Case of a State of War or a Direct Threat to the Independence and Integrity of the Republic of Crc tia (Official Gazette of the Republic of Croatia, 69/91, 25/92 and 81/92);

(c) Decree on the Organization, Work and Territorial Competence of Municipal and District Public Prosecutors' Offices in the Case of a State of War or Direct Threat to the Independence and Integrity of the Republic of Croatia.

International conventions and agreements

13. International conventions and agreements, upon ratification pursuant to the Constitution and publication thereof in the Official Gazette of the Republic of Croatia (article 90 of the Constitution), become an integral part of the domestic legal system of the Republic of Croatia and take precedence over domestic legislation (art. 134).

14. To date, the Republic of Croatia has become party to most international treaties regarding human rights. The Republic of Croatia is a party to the following agreements:

(a) International Covenant on Economic, Social and Cultural Rights, 1966;

(b) International Covenant on Civil and Political Rights, 1966;

(c) Optional Protocol to the International Covenant on Civil and Political Rights, 1966;

(d) Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, 1989;

(e) Convention on the Prevention and Punishment of the Crime of Genocide, 1948;

(f) Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, 1968;

(g) Slavery Convention, 1926, amended by the 1953 Protocol on the Slavery Convention;

(h) Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956;

(i) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949;

(j) International Labour Organisation Convention (No. 29) Concerning Forced Labour, 1930;

(k) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984;

(l) International Labour Organisation Convention (No. 102) Concerning Social Security (Minimum standards), 1952;

(m) Convention relating to the Status of Refugees, 1951;

(n) Protocol Relating to the Status of Refugees, 1967;

(o) Convention relating to the Status of Stateless Persons, 1954;

(p) International Labour Organisation Convention (No. 87) Concerning Freedom of Association and Protection of the Right to Organize, 1948;

(q) International Labour Organisation Convention (No. 98) Concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, 1949;

(r) International Labour Organisation Convention (No. 122) Concerning Employment Policy, 1964;

(s) International Labour Organisation Convention (No. 135) Concerning Protection and Facilities to be afforded to Workers' Representatives in the Undertaking, 1971;

(t) Convention on the Political Rights of Women, 1953;

(u) Convention on the Nationality of Married Women, 1957;

(v) Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962;

(w) Convention on the Rights of the Child, 1989;

(x) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in the Field, 1949;

(y) Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949;

(z) Geneva Convention relative to the Treatment of Prisoners of War, 1949;

(aa) Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949;

(bb) Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977;

(cc) Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1977;

(dd) International Convention on the Elimination of All Forms of Racial Discrimination, 1965;

(ee) International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973;

(ff) International Convention against Apartheid in Sports, 1985;

(gg) Convention on the Elimination of All Forms of Discrimination against Women, 1979;

(hh) International Labour Organisation Convention (No. 100) Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951;

(ii) Convention against Discrimination in Education, UNESCO 1960;

(jj) International Labour Organisation Convention (No. 111) Concerning Discrimination in respect of Employment and Occupation, 1958.

Incrimination of torture

15. Although torture and other forms thereof, i.e., assault and grievous bodily harm are not defined as explicit criminal acts, they are prohibited pursuant to the provisions of the Criminal Code as criminal acts against human rights and freedoms (arts. 45-65), crimes against life and physical integrity (arts. 34-44) and criminal acts against personal dignity and morality (arts. 79-87). Among these, the following crimes are of special interest: breaches of equality of citizens (art. 45), unlawful arrest (art. 46), extortion of statements (art. 48), abuse of duty or public authority (art. 49), breach of inviolability of homes (art. 52), illegal search (art. 53), breach of confidentiality of correspondence and other packages (art. 54) and unauthorized wiretapping and sound recording (art. 57). Contrary to current legislation, article 176 of the new Criminal Act of the Republic of Croatia dated 19 September 1997, expressly incorporates the crime of torture and other cruel, inhuman or degrading treatment and is thus in accordance with the definition of torture as formulated by the Convention. The penalty for this crime ranges from one to eight years' prison sentence. The said Criminal Code became effective on 1 January 1998. (While the new Criminal Code entered into force at that date the information given in this report corresponds to the previous Criminal Code since the period covered and the existing statistics relate to it.)

16. Many provisions in legislation on criminal and administrative procedures arise from the Constitution, according to which any arrested or convicted individual has to be treated in a humane manner having regard to the dignity of the said individual (art. 25, para. 1). The Law on the Execution of Sentences Passed for Criminal Offences, Economic Transgressions and Petty Offences (hereinafter referred to as the Law on the Execution of Sentences) stipulates the same treatment.

17. Moreover, article 29, paragraph 3 (3), of the Constitution states that "evidence illegally obtained shall not be admitted in court proceedings". Pursuant to this principle, the Law on Criminal Procedure prohibits the use of force to obtain statements (arts. 9, 208, para. 8, 209, para. 1, 218 and 249, para. 3) and renders a verdict invalid if based on such evidence (art. 354, para. 1 (8)).

Competent bodies

18. Bodies responsible for dealing with breaches of provisions of the Convention against Torture are the courts, public attorneys, police, ombudsmen and other administrative bodies. Courts have a constitutional duty (art. 115, para. 3) to ensure equal implementation of the law for everyone (art. 26). In criminal proceedings, the public attorney not only has a role as a party, but also according to the prevailing doctrine of continental law, the role of an objective State body responsible for "discovering the truth" and ensuring that the law is complied with. His decision to prosecute is based on the so-called principle of obligatory prosecution (article 17 of the Law on Criminal Procedure). The police bodies have the same obligations and are responsible for the protection of public security and law and order (protection of health and life of citizens, their property, identification of criminal acts and offenders thereof, obtaining the evidence in view of criminal procedure, etc.).

Courts and sanctions

19. Pursuant to the Law on Courts, authority regarding violations of provisions under the Convention lies with courts of general jurisdiction and specialized courts. Courts of general jurisdiction are: municipal courts settling criminal acts that carry a prison sentence not exceeding 10 years; county courts settling criminal acts that carry a prison sentence exceeding 10 years; and the High Court of the Republic of Croatia that covers no specific jurisdiction but settles appeals and special legal remedies. Specialized courts are commercial courts and the Administrative Court of the Republic of Croatia.

20. In the last two years, the total number of individuals sentenced to prison in the Republic of Croatia has not drastically changed. Thus, there are approximately 75 convicts per 10,000 adult citizens.

21. The execution of penal sanctions against adult offenders and minors in the Republic of Croatia is regulated by the Law on the Execution of Sentences Passed for Criminal Offences, Economic Transgressions and Petty Offences. These sanctions are imposed in 6 major penal institutions, 14 county penitentiaries and 2 specialized institutions for the re-education of juveniles.

22. The penal institutions in the Republic of Croatia can accept approximately 2,300 individuals namely, 42 per cent in "closed" institutions, 48 per cent in "open" or "semi-closed" institutions and 10 per cent in the central prison hospital. As at 31 December 1996, there were 2,156 detained individuals of whom: 1,387 were in penal institutions and county penitentiaries, 730 were detainees and 39 individuals were charged with misdemeanours. During the course of 1996, there were 8,143 prisoners in the above-mentioned institutions, of which: 2,572 were convicts, 3,105 were detainees and 2,466 individuals charged with misdemeanours.

Legal remedies

23. The basic legal remedies available to persons who have been victims of torture or some other cruel, inhuman or degrading treatment or punishment, are the following: (a) the right to notify competent bodies for monitoring the regularity of procedures for the above-mentioned cases (the Ministry of the Interior for actions during the course of a police inquiry, prison administrators and the Department of Justice for cases occurring during the serving of a prison sentence); (b) the right of appeal directly to the public attorney's office within three days from the occurrence of illegal or irregular police actions in the course of an inquiry; (c) the right to bring criminal charges on the basis of certain criminal acts to the public attorney, and the right of a victim to institute criminal proceedings against the offender independently as a private plaintiff; and (d) the right to compensation. Furthermore, the Administrative Court of the Republic of Croatia provides legal protection against illegal or indecent acts committed by other administrative bodies.

Current situation and problems

24. With the progressive harmonization of police procedures with standards maintained in democratic societies, many important measures have been introduced, from the reform of criminal legislation, to the amendment of the Law on Internal Affairs and the introduction of other regulations within the framework of the Ministry of the Interior. These new measures are completely in accordance with European norms and thus with worldwide accepted basic principles, as standards for the coordinated functioning between a legal State and guaranteed human rights.

25. In view of the above, it should be pointed out regarding police practice that, for the first time in this part of the world, new special mechanisms for protecting fundamental human rights, especially the right to life, personal freedom and integrity, the prohibition of inhuman treatment, illegal detention and the integrity of home, have been formulated in accordance with constitutional principles and normative changes. Apart from reform of criminal legislation, reform of police legislation which regulates their performance, organization and procedures, has strengthened the protection of human dignity and integrity of human rights and freedoms against repressive police measures.

26. Even the position of the Ministry of the Interior itself, as the executive authority, is structured pursuant to the Law on Organization and Jurisdiction of Ministries and Other Bodies of Public Administration, the Law on Organization and Jurisdiction of State Bodies and the Law on the State Administration System.

27. The general state of security in the liberated regions corresponds to that in other parts of the Republic of Croatia. This is manifested by the apparent decline in the number of crimes registered since 1996. Moreover, this is further proved by the fact that recently in these regions there have been only occasional cases of aggravated crimes, which the police have successfully solved. Regarding unsolved cases, the police are undertaking intensive operations with the aim of identifying offenders thereof, which will no doubt contribute to further stabilization of the general security of people and property in these regions. In view of this, the Ministry of the Interior is consistently making efforts to take measures within its framework, in order to ensure improved security in the liberated regions, which would facilitate better economic development and the return of refugees.

28. Furthermore, the Government of the Republic of Croatia has also fulfilled all preconditions for the constitutional and legal functioning of the Croatian State in the region of Croatian Podunavlje where the process of peaceful reintegration is currently taking place.

29. In spite of a wide range of security measures taken in the liberated regions, a certain number of cases regarding the violation of human rights, i.e. criminal behaviour (murder, robbery, burning and looting of abandoned properties) have been registered. A certain number of these criminal acts, committed by individuals or smaller groups outside the control of the Croatian authorities, could not have reasonably been prevented. However, all competent bodies have been taking legal measures in all identified and registered cases with a view to solving those crimes still unsolved.

30. With regard to murder cases, which were mostly committed immediately following the liberation of previously occupied regions, namely during the period from 4 August 1995 to 31 December 1996, the Ministry registered 41 murder cases in which 67 persons were killed (53 Serbs, 12 Croats and 2 Muslims). Of the total number of murder cases, 21 cases in which 41 persons were killed have been solved. The police have brought charges before competent legislative authorities against 33 individuals involved in aggravated crimes. Regarding the remaining murder cases, the police are currently collecting material evidence within the framework of intensive operations to arrest the offenders in question.

31. During the same period, the police registered 68 robberies in this region, of which 40 have been solved; 81 offenders in relation to these crimes have been arrested.

32. Police officials in the liberated region have also processed 3,357 cases of aggravated theft, of which 2,158 have been solved and 3,144 offenders have been arrested.

33. In the liberated region, the police have also registered 983 cases of partial or complete destruction of houses where investigations have been conducted at the scene of the crime. Investigations into these cases have demonstrated that the destruction of such abandoned properties was intentional. The police have solved 53 of these cases and arrested 50 offenders.

II. INFORMATION ON MATERIAL PROVISIONS OF THE CONVENTION

Article 2

34. The Croatian legal system and regulations concerning the police and penal system regulate conditions for the prevention and sanctioning of all acts included in the terminology of torture and other cruel, inhuman and degrading punishment and treatment. The prohibition of these acts, excluding the constitutional norm (art. 23), is prescribed by various provisions of the Criminal Code, the Law on Criminal Procedure and other laws and by-laws that regulate disciplinary obligations of police officials, as well as by regulations on the execution of penal sentences. Furthermore, the prohibition of torture is contained in the Constitutional Law on Human Rights and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia.

35. As already mentioned, the constitutional prohibition of torture in the Republic of Croatia cannot be derogated, even in exceptional circumstances (article 17, paragraph 3, of the Constitution), whereas the Law on Criminal Procedure prohibits all forms of cruel methods for obtaining statements from persons during criminal proceedings. Furthermore, the Law on Internal Affairs and its by-laws regulate all measures of control over the police as well as disciplinary proceedings and sanctions.

36. As already emphasized in the initial report, the Constitution of the Republic of Croatia represents the basis for the legal as well as institutional values in respect of coordinating the general Croatian legal

system with European legislation, notably with laws and norms of a modern European society. Personal freedoms and human and civil rights as the highest values of the constitutional and legal system can only legally be limited pursuant to article 16 of the Constitution of the Republic of Croatia for the purpose of protecting human freedoms and rights, constitutional order, public morals and health. In delivering judgements and decisions, courts and other competent bodies can seek guidance from the Ministry of the Interior, which has the obligation to provide guidance if there exists physical resistance against the execution of a decision or if such resistance can reasonably be expected, as stipulated in article 46, paragraph 1, of the Law on Internal Affairs.

37. Pursuant to constitutional postulates, Ministry of the Interior officials are under a duty to comply with the provisions of the Law on Criminal Procedure and the Law on Internal Affairs in the course of performing their daily duties. The said Ministry has to monitor on a daily basis whether police behaviour is legal, professional, tactical, decent and correct towards citizens with due regard towards efficient protection of human rights.

38. Owing to the introduction of the new system of principles and by taking numerous correct and institutional measures, during the last year there was an increase in the legality of procedures when compared with the situation of two years ago. Thus, in 1996, disciplinary procedures were instituted against 3,673 officials, of which 2,394 related to the abuse of work discipline and 1,279 for the aggravated abuse thereof.

39. The majority of aggravated abuse cases are related to negligent performance of duties (409), indecent behaviour on and off duty (374), the abuse of authority (149), and failure to execute prescribed measures (144).

40. In the course of the proceedings, 240 officials have been removed from duty due to aggravated offences, and 110 officials have been dismissed from service pursuant to decisions by disciplinary courts, whereas 971 have been fined. Criminal procedures have been instituted against 186 officials on the grounds of serious aggravated offences.

41. From the overall number of disciplinary proceedings, disciplinary procedures for citizen abuse were instituted against 10 police officials in 1995 and against 6 in 1996. These cases involving the use of violence were committed mostly by younger police officials who were either insufficiently educated or inexperienced. These offences usually consisted of inflicting bodily harm in the course of police inquiries aimed at obtaining confessions for offences or collecting evidence.

42. The legality of police behaviour is one of the major preconditions for the functioning of a legal State. Thus, the Ministry of the Interior has given priority to providing education, thereby limiting repressive measures at all levels of police work. Pursuant to this view, in reforming the Law on Internal Affairs, the Ministry of the Interior has established certain protective democratic mechanisms according to which all government officials and the officials of ministries are to protect the lives of people and the dignity of man and are only to utilize those enforcement measures as prescribed by law. These enable the performance of duties with the fewest

possible repercussions. This excludes, however, every single type of abuse by individuals acting on their own. This law guarantees human dignity, integrity and human rights and sets down limits for police authorities.

43. Moreover, the procedure which must be obeyed in case of an appeal against police behaviour is explained in great detail. According to this procedure, if charges by civilians are based on any form of abuse or some other illegal treatment, the Ministry of the Interior has to notify the applicant within 30 days of measures being taken regarding the charges. This represents an additional protection against the prevention or concealment of any kind of violation of fundamental human rights in police proceedings, especially in case of any form of violence, as prescribed by the Convention.

44. Pursuant to the consistent application of the necessity principle as prescribed by the European Convention on Human Rights, the Croatian police force, prohibits the use of unjustified force except when it is absolutely necessary to achieve the legal effect in the performance of their duties. Strict application of this principle in practice prevents any abuse by the police authorities.

45. To fulfil this same principle, the Law on Internal Affairs has reduced the length of detention for citizens in police facilities from three days to one.

46. Furthermore, pursuant to a process initiated to introduce changes into criminal legislation with a view to ensuring effective protection from police intrusion into fundamental human rights and freedoms, the police no longer have the authority to determine the issue of detention, which has now been placed under the jurisdiction of the courts. This provides an additional guarantee of this measure, which is of a legal nature.

47. Hence, the transformation of the overall legal system, especially the regulations within the competence of the Ministry of the Interior, has enabled a higher level of protection of human dignity and integrity of human rights. Accordingly, numerous criminal acts have been identified with a view to protecting the freedoms and rights of man and citizen. This includes introducing a higher level of responsibility if the offence is committed by an official person, especially the crime of abuse of service and authority. Only eight cases of this type were recorded in 1996 or 0.01 per cent of the total number of criminal acts in the said year, and two criminal acts of extortion of statement.

48. After a considerable decline of 41.3 per cent in 1995, during the course of 1996 there was an increase of 9.6 per cent of crimes involving coercion, which is still below the level of previous years. Accordingly, in 1995, there were 493 cases involving forms of coercion whereas in 1994 there were 767 such cases.

49. Of the total number, 471 cases involving forms of coercion were evaluated as justifiable, whereas the remaining 22 were not (in 1995 also 22 were not determined as justifiable). Taking into account the use of moderate means of coercion, physical force was most frequently used (399 cases), followed by the use of a truncheon (30), the use of firearms (9), and finally other means of coercion (55).

50. The major forms of coercion took place in open locations (329) whereas 164 cases took place within some facility. Coercion, when it occurred, was generally used in response to a direct assault on a person (169 cases), for suppressing resistance (123) and for taking individuals into custody (90). Furthermore, means of coercion were used 19 times for the purpose of preventing the escape by offenders caught red-handed, 12 times for the purpose of protecting the lives of others, twice in response to assaults on persons or attacks on a guarded facility, 5 times for the holding of individuals, 6 times for preventing escape by detainees and 67 times for other reasons.

51. In 1996, the use of coercion resulted in three individuals being killed, 168 slightly injured and 9 seriously injured. At the same time, 192 police officers were slightly injured and 11 seriously.

52. In 1996, due to the inappropriate use or abuse of powers, 28 disciplinary procedures were instituted against police officers.

53. Unlike the police, who use firearms as a means of very restricted coercion (in only 1.8 per cent of cases), this seems to be the most frequent behaviour of assailants (in 12.4 per cent of cases) towards the police. This clearly shows consistent implementation of the principle and, most of all, the use of moderate forms of coercion even in cases of the most serious forms of assault upon police officers.

54. In defending themselves from physical assaults, police officers used coercion in 211 cases on 277 individuals, utilizing physical force (155 cases), a truncheon (11 cases), firearms (8 cases) and other means (37 cases).

55. These assaults did not result in fatality among policemen. However, 209 policemen were slightly injured and 15 seriously. At the same time, 2 assailants were killed, 80 were slightly injured and 8 seriously.

56. Since the police for the first time take into account the legality of action and the exercise of authority at all levels of their work, pursuant to experiences of European police forces, the new police structure includes an Office for Internal Control aimed at preventing illegal behaviour in the line of police duty.

57. Furthermore, adequate and effective response to individual cases of illegal behaviour, especially to complaints and petitions by civilians, has contributed to strengthening the legitimacy and social acceptability of the police. In 1996, the Office for Internal Control received 468 cases under its jurisdiction (in 1995, there were 353 such cases), mostly complaints (22), petitions (318) and operative information (72). By the end of the year, the Office had solved 458 of these cases. The remaining cases will be processed in due course.

58. The majority of these 458 cases relate to abuse of duty or of authority (232 or 50.7 per cent), failing to take or insufficiently taking prescribed measures (102 or 22.3 per cent) and the negligent performance of duties (33 or 76.2 per cent) and indecent behaviour on and off duty (40 or 8.7 per cent).

59. Moreover, it is important to mention that out of these cases, 88 or 19.2 per cent relate to the behaviour of chief police officials, 267 or 58.35 per cent to police officials and 54 or 11.8 per cent to officials from the crime squad.

60. Of the 458 cases, 70 or 15.3 per cent have been vindicated, whereas 47 or 10.3 per cent only partially justified.

61. The investigation into a certain number of complaints and pieces of operative information has resulted in disciplinary action against police officials in 113 cases. In one case charges for misdemeanour have been recommended, in 26 cases criminal indictments and in 9 cases personnel charges.

62. Furthermore, in 1996 the police administration received 1,734 petitions and complaints of which 1,689 were solved by the end of the year. The remaining 48 will be solved in due course. Of the overall number of cases processed by the police administration, 174 cases were vindicated.

63. Pursuant to article 16 of the Law on Internal Affairs, as already mentioned in the first report, the Croatian Parliamentary Board for Internal Politics and State Security, constituted from the Chamber of Deputies, monitors the legality of the Security Service's performance. The board monitors the work of the Security Service especially regarding the exercise of human and civil rights and freedoms, the rights prescribed by the Constitution and legislation as well as rights and freedoms endorsed by international law. At least once a year, the board submits a report to the Croatian State Parliament addressing the legality of work of the Security Service.

64. Pursuant to article 158 of the Law on Execution of Sentences, a convicted person has the right to appeal to the prison administrator against any breach of his/her rights or any other illegal measures taken during the procedure. The administrator is under a duty to consider every appeal, reach a decision on the appeal in the form of a ruling and notify the convicted person of such. If a convicted individual appeals to the Department of Justice against the administrator, the administrator must forward them the appeal together with the relevant documents. The legal service in prisons has to notify a convicted person of the right of appeal, the grounds on which the individual can appeal and of the obligation to comply with proceedings following the appeal. During the course of 1996, the Department of Justice received nine appeals from prisoners regarding treatment and behaviour by members of the Justice police.

65. Pursuant to legal provisions, members of the Justice police may only use means of coercion in cases of preventing an escape by a convicted person, a physical assault on members of personnel, inflicting bodily harm to other individuals, self-injury or inflicting material damage. The use of firearms is only permitted if the use of physical force, a truncheon or other means of coercion, cannot guarantee their legal performance of duties, or cannot protect the lives of people and prevent the convicted person from directly endangering the lives of Justice police officers, or cases involving attacks on property or preventing escape. The Department of Justice has to be notified about every use of firearms against convicted persons. Last year,

the Department of Justice recorded 40 cases of coercion on prisoners, of which 23 implied the use of physical force and 17 the use of a rubber truncheon. Out of the total number of the cases where coercion was used, only a single case occurred where it was perceived that authority had been abused by the use of a rubber truncheon. Subsequently, three Justice police officers were punished under disciplinary proceedings.

Article 3

66. As emphasized in the previous report, the Law on Movement and Residence of Aliens grants refugee status to foreign nationals who have left a State in which they were citizens or had permanent residence as stateless persons in order to avoid prosecution due to their political views or due to their national, racial or religious beliefs. The request for refugee status is submitted upon entry into the Republic of Croatia, and a foreign national is taken into the foreigners' accommodation centre for the time it takes for the procedure to be completed, if that individual has no means of subsistence or funds to personally pay for private accommodation.

67. The request for acceptance of refugee status contains the name and surname, date and place of birth, citizenship, occupation and address in the country the individual has left, circumstances that have brought him/her to the Republic of Croatia, information on immediate family members, reasons for requesting acceptance of refugee status and additional information if the said individual has already requested protection from some other country. The request for acceptance of refugee status may be denied if there is reason to believe that individual has committed terrorist acts, aggravated crimes, acted against the principles of the United Nations or if the same is sought on grounds of national security or public law and order. If a foreigner has already received refugee status, it may be revoked for the same reasons.

68. A child of a foreign citizen who has received refugee status enjoys the same rights as its parent. After reaching 18 years of age, he or she will be regarded as a foreign national enjoying extended residence.

69. The Ministry of Interior, in coordination with the Ministry of Labour and Social Welfare, determines the issue of acceptance of refugee status.

70. A foreign national whose refugee status has been accepted will be provided with the necessary accommodation, means of support and medical care for a period not exceeding three months, starting from the date of acceptance of refugee status and ending with his/her departure to another country, or until that individual can provide means of support on his/her own.

71. Refugee status will be revoked if a foreign national requests the protection of a State of which he/she is a citizen or of a State where he/she possesses domicile as a stateless person, if the reasons why that individual fled the country in question cease to exist or if he/she voluntarily returns to that country. Refugee status can also be terminated if a foreign national receives a citizenship of some other State. Furthermore, refugee status ceases to exist if a person has been sanctioned with the protective measure of expulsion or dismissal from residence or cancellation of refugee status (if it is necessary for the reason of protecting national security or public law and order).

72. In 1996, there was not a single case of accepting refugee status for foreigners.

73. With regard to the rights of foreigners, it is important to mention that the Constitution of the Republic of Croatia incorporates in article 32, paragraph 1, the principle of article 12, paragraph 1 of the International Covenant on Civil and Political Rights: "Anyone who legally finds himself on the territory of the Republic shall have the right to move freely and choose a residence." In its article 32, paragraph 1, it incorporates article 12, paragraph 3 of the said Covenant: "The right of movement within the Republic of Croatia and the right to enter or leave it may exceptionally be restricted by law, if this is necessary to protect the legal order or the health, rights and freedoms of others." Furthermore, by its general provisions the Law on Movement and Residence of Aliens legislates the said provisions of the Covenant. The conditions for entry and residence of foreigners in the Republic of Croatia are regulated by article 2 of the law: "A foreigner has the right to enter in and reside on the territory of the Republic of Croatia with valid travel documents issued in accordance with regulations of a foreign country or valid travel documents for foreigners that contain a visa issued by a national body authorized for issuing the mentioned documents, unless it is hereunder prescribed otherwise." Article 3 of the law regulates restrictions on the ground of protecting national security or public law and order: "A foreigner may be denied the right to enter into the Republic of Croatia, his/her freedom of movement may be limited or denied in a certain area, his/her residence may be cancelled or permanent residence may be denied in certain areas for the purpose of protecting national security or, for the reasons of protecting public order."

74. A foreigner has to notify competent authorities as to his/her place of residence and any changes of address and has to register or cancel his/her residence. Failure to comply with the said provision will be regarded as an offence prescribed by criminal provisions of the Law on Movement and Residence of Aliens which can result in application of article 39 of the said law, i.e. in revoking residence or sanctioning through the protective measure of removal from the territory of the Republic of Croatia under legal proceedings.

75. Pursuant to the law, a foreigner who is sentenced by a security measure of expulsion or protective measure of removal or if his/her residence is cancelled or if his/her residence has not been authorized by competent authorities, has to leave the territory of the Republic of Croatia within the period designated by the competent body (article 65, paragraph 1, of the Law on Movement and Residence of Aliens). The security measure of expulsion of foreigners from the country is determined by criminal courts if the offender has been sanctioned with a regular sentence or a suspended sentence. The security measure of expulsion lasts from 1 to 10 years or is indefinite.

76. Article 65, paragraphs 2 and 3, of the Law on Movement and Residence of Aliens prescribes the use and mechanisms for enforced removal of foreigners from the Republic of Croatia. A foreigner who does not leave the territory of the Republic of Croatia within the designated period and possesses valid travel documents will be escorted to the national border and removed from the Republic of Croatia by force.

77. A foreigner who does not possess valid travel documents will be escorted to the diplomatic or consular mission of the State of which he/she is a citizen for the purpose of receiving travel documents. If the mission refuses to issue requisite travel documents, the foreigner will receive a travel certificate and will be escorted to the national border and delivered to the competent authorities of a neighbouring country of which he/she is a citizen or of any other country that is willing to accept him. The costs of such will be met by the foreigner himself/herself. If the foreigner in question has no financial means, the costs will be settled out of the national budget of the Republic of Croatia.

78. On the territory of the Republic of Croatia, 2,522,969 foreigners registered their residence in 1996 and 1,178,317 in 1995. Among those registered, the majority were Italians (430,654, or 92.7 per cent more than in 1995), Germans (427,094, or 127.5 per cent more), Slovenians (420,001, or 60.0 per cent more) and Austrians (353,391, or 98.0 per cent more).

79. In 1996, 1,397 criminal charges (986 in 1995) and 8,528 misdemeanour charges (6,142 in 1995) were filed for criminal acts committed against foreigners. Measures to cancel residence were implemented against 1,052 (798 in 1995), security measures of expulsion against 82 (77 in 1995) and protective measures of removal against 980 (789 in 1995) foreign nationals. Two hundred and fifty-three (253) foreigners (189 in 1995) were retained and 3,281 (2,704 in 1995) were subject to fines.

80. In 1996, 1,170 foreign nationals were removed from the Republic of Croatia by force. These were nationals of the following countries: 87 from the Federal Republic of Yugoslavia, 282 from Bosnia and Herzegovina, 16 from Slovenia, 23 from Macedonia, 26 from Albania, 4 from the Czech Republic, 13 from Italy, 3 from Hungary, 9 from Germany, 4 from Poland, 484 from Romania, 2 from Slovakia, 128 from Turkey, 48 from the former Soviet Union, 8 from Egypt, 3 from Morocco, 2 from China, 5 from Sri Lanka and 1 each from Finland, France, Greece, Norway, the Netherlands, Iraq, Iran, Peru, Tanzania and Senegal.

81. In the course of 1996, accommodation centres accepted 734 foreign nationals (462 in 1995) pursuant to international standards.

82. Due to the failure to use measures of removal or find appropriate accommodation, in 1996 residence was regulated for 63 foreign nationals (77 in 1995) pursuant to international instruments concerning family reunion issues.

83. A considerable increase in criminal and misdemeanour charges brought against foreigners was noted. The use of measures to forcibly remove foreigners due to violations of regulations, identified when controlling the legal grounds for their residence and movement in the Republic of Croatia, is the result of the fact that the Republic of Croatia is increasingly facing the problem of illegal migration. This is especially from countries with a high migration risk, and is also apparent from the significant increase in illegal residences identified this year.

84. With a view to offering better treatment and accommodation to foreigners who are currently participating in legal proceedings, a modern accommodation centre has been opened in Jezevo, near Zagreb.

85. In 1995 and 1996, the Republic of Croatia did not extradite a single foreigner to a State where that foreigner may have been exposed to torture or other similar treatment.

Article 4

86. The Criminal Code of the Republic of Croatia prescribes norms for various crimes. They prohibit torture and other inhuman or degrading treatment such as: violation of equality of citizens (art. 45); unlawful arrest (art. 46); extortion of statement (art. 48); abuse of duties or public authority (art. 49); breaching the inviolability of the home (art. 52); illegal search (art. 53); violation of confidentiality of correspondence and other post (art. 54); and unauthorized wiretapping and sound recording (art. 57).

87. In order to prevent these criminal acts, during the course of 1996, the police filed two criminal charges on the grounds of violation of equality of citizens, whereas the previous year no such charges were registered. For unlawful arrest, the police in 1996 filed 22 criminal charges (9 in 1995) and for extortion of statement, 2 criminal charges (only 1 in 1995). On the ground of abuse of duty or authority, in 1996, the police filed 8 criminal charges (8 in 1995); 1 charge of coercion in 1996, (none in 1995); 3 charges for breach of inviolability of the home in 1996, (4 in 1995); in 1996 there were no charges on the ground of illegal search (none either in 1995); 4 charges for violation of confidentiality of correspondence and other post in 1996 (32 charges in 1995); and no charges for unauthorized wiretapping and sound recording in 1996 (1 in 1995).

88. Regarding crimes against human and civil freedoms and rights (chapter VI of the Criminal Code of the Republic of Croatia), during the period from 1 January 1996 to 12 June 1997, the Department of Justice registered 90 defendants of whom 23 were convicted for the crime of unlawful arrest (11 defendants and 2 convicted); kidnapping (4 defendants and 3 convicted); crimes involving abuse of duty or authority (29 defendants and 3 convicted), and for the criminal act of jeopardizing security (46 defendants and 16 convicted).

Article 5

89. In accordance with the principle of territorial integrity of the State and pursuant to article 99 of the Basic Criminal Code of the Republic of Croatia, every person who has committed any criminal act on the territory of the Republic of Croatia is subject to the Croatian Criminal Code.

90. As previously mentioned in the initial report, every person who has committed a crime on board any Croatian vessel (the vessel having been registered in the Republic of Croatia) is also subject to the Croatian Criminal Code, regardless of the location of that vessel at the time the crime was committed. The Croatian Criminal Code also applies to criminal acts

committed in domestic civil aircraft during the course of a flight or in military aircraft, regardless of the aircraft's location at the time the crime is committed.

91. Pursuant to article 101 of the Basic Criminal Act of the Republic of Croatia, provisions of the Croatian Criminal Code apply to all nationals of the Republic of Croatia for acts committed in any foreign country, if at the time, the person in question is situated on the territory of the Republic of Croatia or has been extradited.

92. Pursuant to the provisions of article 102 of the Basic Criminal Act, the Code also applies to foreign nationals who have committed crimes against the Republic of Croatia or against any Croatian national outside Croatian territory, if that person is situated on the territory of the Republic of Croatia or has been extradited.

93. The Republic of Croatia has adopted the principle of universal applicability of the Criminal Code. Thus, pursuant to this principle, the Croatian Criminal Code applies to foreign nationals who have committed a criminal act against any other State or any national thereof outside the territory of the Republic of Croatia. In these cases, Croatian penal legislation applies to the foreigner who has committed a criminal act in a foreign country for which that person, pursuant to Croatian legislation, can be sentenced to a five-year term or more if he/she is situated on the territory of the Republic of Croatia and is not to be extradited to the respective foreign country.

Article 6

94. As stated in the initial report, pursuant to provisions of the Law on Criminal Procedure, if there is reason to suspect that a person has committed a crime, that person can be detained (preliminary detention) in accordance with strictly prescribed conditions. This measure can be applied only upon an order issued by the investigating judge to whom the arrested individual has been surrendered, after the investigating judge has questioned the individual. Detention has to be revoked automatically without the request of the defendant, if the reasons which led to the detention cease to exist. Detention must be replaced by a more moderate measure (for example, an undertaking by the defendant that he/she will not leave his/her place of residence; a guarantee, etc.) when appropriate legal conditions are met. Upon the request of the detainee, authorities have to notify relatives about the detention or any other person that the detainee specifies. Pending preliminary proceedings, the defendant can only be detained for a period not exceeding one month from the date of his/her detention. Upon expiry of this period, the county court council can only prolong detention for a further period not exceeding two months, and in the case of aggravated offences subject to a prison sentence exceeding five years, the Supreme Court Council can further prolong detention by a period not exceeding three months. Upon termination of this period, the defendant has to be released from detention regardless of the fact whether the inquiry has been completed. In any case an individual subjected to illegal detention has the right to indemnity.

95. Regarding the extradition of defendants and convicts, the Law on Criminal Procedure states that, after a request for extradition of a foreign national has been submitted to the investigating judge, if there are grounds for detention, the investigating judge has to issue a detention order, unless the request makes it clear that extradition is not justified. After confirming the foreign national's identity, the investigating judge has to notify him/her immediately of the crime with which that person has been charged, as well as of the evidence that has led to his/her extradition and inform him/her of the right to legal counsel. The defendant will be provided with a lawyer if the crime in question demands the presence of such.

96. In case of an emergency, when there is a possibility that the foreign individual could escape, the police have authority, upon request by foreign bodies, to arrest the individual in order to surrender him/her to the investigating judge. This request must contain all the necessary information and a statement that extradition will be sought by regular means.

97. If detention has been mandated, the investigating judge has to notify the Ministry of Foreign Affairs through the Department of Justice. If the reasons that have led to detention cease to exist or if the foreign bodies have not submitted a request for extradition within the specified period designated by the judge, the foreign national must be released. This period should not exceed three months from the date of detention, and upon the request by a foreign country, the county court council can prolong the period for a further three months if justified by reasonable grounds.

98. In the course of 1996, 13 foreign nationals were extradited due to various criminal acts (in 1995, only 3). None of these cases were related to extradition on the grounds of abuse or torture as stipulated in the Convention.

Article 7

99. The principle of aut dedere, aut judicare, stipulated in article 7 of the Convention, is also incorporated in the Croatian legal system. As in all major West European countries, the courts oversee extradition proceedings and implementation of extradition agreements. However, since extradition is regarded to be a governmental act, the Republic of Croatia has adopted the system of the so-called "legislative veto": if a county court ruling denying extradition becomes final, it has to be submitted to the foreign country in question and in turn the case is closed. When the court decides that all constitutional and conventional prerequisites for extradition of a foreign citizen have been met, this ruling has to be submitted to the Department of Justice, which reaches the final ruling on the acceptability of the extradition in question.

100. If the evidence shows that the crime has been committed in a foreign country and the extradition has not been approved, a public attorney will, bring criminal charges against the foreigner. This request has to be submitted to the competent county court. In this manner, the Croatian legal system guarantees that a person, whose extradition has been denied, will be prosecuted and put on trial as any other person in accordance with the principles of the pending Criminal Code.

Article 8

101. Regarding the issue of extradition, there are 14 bilateral treaties currently in effect in the Republic of Croatia (signed with Austria, Belgium, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Germany, Greece, Hungary, Italy, Macedonia, Poland, Slovakia, and Turkey). Pursuant to these bilateral treaties, extradition is possible in the majority of the cases (Austria, Belgium, Bulgaria, the Czech Republic, Germany, Greece, Italy, Poland and Slovakia) on the basis of criminal acts stipulated in article 4, with the exception of coercion. Concerning the treaty with Turkey, extradition is only possible on the grounds of the crime of illegal arrest or extortion of statement. The treaty signed with Hungary does not approve extradition regarding criminal acts under article 4.

102. It is important to mention that apart from extortion, on the basis of these treaties legislation of the Republic of Croatia enables the so-called unarranged extradition, based on the reciprocity principle and the exclusive application of the national legislation of the country that demands extradition. Furthermore, the Republic of Croatia has adopted the Constitutional Law on Cooperation with the International Tribunal for the War Crimes Committed on the Territory of the former Yugoslavia dated 1991.

103. The list of bilateral treaties currently in effect in the Republic of Croatia are:

(a) the Treaty on Extradition of Offenders between the Kingdom of Serbs, Croats and Slovenians and Italy of 6 April 1922;

(b) the Treaty on Mutual Legal Support between the Socialist Federal Republic of Yugoslavia and the People's Republic of Bulgaria of 23 March 1956;

(c) the Treaty on Mutual Legal Relations between the Socialist Federal Republic of Yugoslavia and the Kingdom of Greece of 18 June 1959;

(d) the Treaty on Mutual Legal Support between the Socialist Federal Republic of Yugoslavia and the People's Republic of Hungary of 7 May 1960;

(e) the Treaty on Regulation of Legal Relations on Civil, Family and Criminal Issues between the Socialist Federal Republic of Yugoslavia and the Republic of Czechoslovakia of 20 January 1964;

(f) the Treaty on Mutual Legal Relations between the Socialist Federal Republic of Yugoslavia and the People's Republic of Hungary of 7 March 1968;

(g) the Treaty on Extradition of Persons between the Socialist Federal Republic of Yugoslavia and the Federal Republic of Germany of 26 November 1970;

(h) the Treaty on Extradition and Legal Support in Criminal Issues between the Socialist Federal Republic of Yugoslavia and the Kingdom of Belgium of 4 June 1971;

(i) the Treaty on Extradition of Persons between the Socialist Federal Republic of Yugoslavia and Turkey of 17 November 1973;

(j) the Treaty on Legal Support in Criminal Issues between the Socialist Federal Republic of Yugoslavia and the Republic of Austria of 1 February 1982;

(k) the Treaty on Extradition between the Socialist Federal Republic of Yugoslavia and the Republic of Austria of 1 February 1982;

(l) the Treaty on Legal Support on Civil and Criminal Issues between the Socialist Federal Republic of Yugoslavia and the Republic of Macedonia of 2 September 1994;

(m) the Treaty on Legal Support on Civil and Criminal Issues between the Republic of Croatia and the Republic of Slovenia of 7 February 1994; and

(n) the Agreement on Legal Support on Civil and Criminal Issues between the Republic of Croatia and the Government of the Federation of Bosnia and Herzegovina of 26 February 1996.

Article 9

104. Legal support and cooperation in criminal procedures regarding criminal acts prescribed by the Convention is established by virtue of bilateral treaties currently effective in the Republic of Croatia and domestic regulations contained in the Law on Criminal Procedure. This enables cooperation outside the scope of these treaties.

105. All these treaties, together with Croatian domestic legislation, enable foreign countries to use various forms of support in criminal procedures, including: verification of identity papers; the hearing of defendants, witnesses and experts; seizure of articles and their delivery to foreign countries; serving subpoenas; submission of information from police files regarding the defendants, etc. The courts may approve legal support upon the request of other courts and bodies of any foreign country if there is no specific restriction thereof (military or political criminal acts) or if this would jeopardize the security and other important interests of the Republic of Croatia.

106. The list of bilateral treaties for legal support on criminal issues that are currently in force in the Republic of Croatia are as follows:

(a) the Convention on Legal and Judicial Protection of Nationals/Appendix 41 of the Treaty between the Kingdom of Serbs, Croats and Slovenians and Italy of 6 April 1922;

(b) the Treaty on Extradition of Offenders between the Kingdom of Serbs, Croats and Slovenians and Italy of 6 April 1922;

(c) the Treaty on Legal Support between Yugoslavia and Poland 6 February 1960;

(d) the Treaty on Regulation of Legal Relations on Civil, Family and Criminal Issues between the Socialist Federal Republic of Yugoslavia and the Republic of Czechoslovakia of 20 January 1964;

(e) the Treaty on Extradition and Legal Support in Criminal Issues between the Socialist Federal Republic of Yugoslavia and the Kingdom of Belgium of 4 June 1971;

(f) the Treaty on Legal Support between the Socialist Federal Republic of Yugoslavia and the Federal Republic of Germany of 1 October 1971;

(g) the Treaty on Legal and Judicial Support between the Socialist Federal Republic of Yugoslavia and the Republic of Turkey of 8 October 1973;

(h) the Treaty on Legal Support in Criminal Issues between the Socialist Federal Republic of Yugoslavia and the Republic of Austria of 1 February 1982;

(i) the Treaty on Mutual Surrendering of Defendants for Serving Prison Sentences between the Socialist Federal Republic of Yugoslavia and Czechoslovakia of 23 May 1989;

(j) the Treaty on Legal Support on Civil and Criminal Issues between the Republic of Croatia and the Republic of Slovenia of 7 February 1994;

(k) the Treaty on the Uniform Implementation of Legal Decisions in Criminal Issues between the Republic of Croatia and the Republic of Slovenia of 7 February 1994;

(l) the Treaty on Legal Support on Civil and Criminal Issues between the Federal Republic of Yugoslavia and the Republic of Macedonia of 2 September 1994;

(m) the Treaty on the Uniform Implementation of Legal Decisions in Criminal Issues between the Republic of Croatia and the Republic of Macedonia of 2 September 1994;

(n) the Agreement on Legal Support on Civil and Criminal Issues between the Republic of Croatia and the Government of the Federation of Bosnia and Herzegovina of 26 February 1996.

Article 10

107. Informing and training police officials on the prohibition of torture and other forms of cruel, inhuman and degrading treatment of individuals undergoing informative conversations or during questioning or imprisonment is implemented on a regular basis at all levels of education, as a part of the academy and university programme at all three organized educational levels at the police academy. It is the belief that this is the correct way by which to focus on, encourage and develop a civilized, sophisticated and humane relationship between future police officers and citizens.

108. The content of the Convention is incorporated into several courses at several educational levels. Accordingly, it is studied as a part of the curriculum in the following courses: police procedures, criminal inquiries, courses relating to the Law on Criminal Procedure and the Law on Internal Affairs, criminology courses as well as in the Police Code and the curriculum of legal courses.

109. Students being trained as members of the Justice police also attend courses at the police academy. They extensively study the question of torture and the overall protection of human rights in the following courses: criminology, psychology and rules for guard duties. Apart from the Convention, the provisions under other related Treaties are also studied. In the course of 1996, 74 members of the Justice police undertook special studies and 113 attended special courses.

110. The curriculum at the academy incorporates the study of the Convention against Torture and Other Cruel and Inhuman Treatment or Punishment into the following four legal subjects: police organization and work, tactics and criminal inquiries, military skills and protection of constitutional order.

111. Furthermore, the police undertake numerous measures on a daily basis, for the purpose of preventing any form of illegal practice and developing a new professional ethical code of the police, especially regarding the use of coercion - starting with the effective regulation of performance at all levels of work of the Ministry, successive professional training, an in-depth analysis of every case involving abuse, developing ways of effective performance, cooperation and trust between the police and citizens.

112. The Ministry of the Interior draws special attention to the legality and the use of police authority at all levels of work, especially in cases implying torture and other violent forms mentioned in the Convention. Owing to the introduction of a new system of ethics and taking various effective and institutionalized measures, in 1996 the overall situation was drastically improved, with a decline in the number of cases of illegal use of coercion.

113. Training courses for military police also draw special attention to humane treatment that has to be in accordance with behaviour that does not violate honour, reputation or dignity, as well as the personal integrity of individuals undergoing certain proceedings. Officials of the military police attend courses at the Military Police Educational Centre on substantive criminal law and on the Law on Criminal Procedure.

114. The prescribed use of force and means of coercion in the line of duty performed by military police officers, correspond to those used by the regular police force in the Republic of Croatia.

Article 11

115. Pursuant to article 39 of the Law on Government Administration and article 88 (a) of the Law on Execution of Sanctions Pronounced for Criminal Offences, Economic Transgressions and Petty Offences, the expert commission of the Ministry of Health regulates medical services in penitentiaries within the Republic of Croatia. Health care is provided by primary health-care units whereas specialized health care is provided by the prison hospital in Zagreb.

116. According to the findings by the Ministry of Health, hygiene conditions in the Lepoglava facilities have in general been satisfactory. Medical checkups are regular and the hospital has a good supply of medication. The food quality is satisfactory. The Charter on the Right of Patients is entirely complied with. Following a visit by the Commission and pursuant to their findings, overall action has been taken for the purpose of reconstructing adequate sanitary and hygiene facilities. However, it should be taken into account that Lepoglava prison is among the oldest prisons in Europe. Having regard to this, measures have been taken with a view to raising the quality of prisoners' accommodation with those stipulated by European standards.

117. Hygiene conditions in Pozega facilities (a women's penitentiary) have also been satisfactory, even better that those prescribed by strict legal provisions.

118. Reform of the Law on Internal Affairs has limited detention of citizens in police facilities from three days to one. Furthermore, reasons for detaining citizens are now restricted to the protection of human rights and freedom and public law and order, and public moral and health, with no possibility of extending them on discretionary grounds. Unlike previously, legal protection of the rights of the detained are guaranteed by the Constitutional Court of the Republic of Croatia.

119. Moreover, in accordance with the ongoing process of reforming criminal legislation with a view to ensuring better protection against police intrusion into fundamental human rights and freedoms, the police no longer have the authority to determine detention. This authority now lies under the jurisdiction of the courts, which is an additional guarantee as to the legality of this measure.

120. Regulation of the detention and treatment of detainees is carried out by the chief constable of the police station in question, who has to reach the decision and notify the detainee within six hours. The individual can file an appeal against the decision within six hours thereafter. The head of police administration will reach a decision on the appeal within six hours thereafter, respectively.

121. This procedure questions the legality of detention and the regularity of treatment towards the detainee who, in the case of this type of illegal treatment, with a special emphasis on illegal force, can seek the protection of the public attorney who will initiate the process of legal protection under criminal proceedings.

122. Determination of disciplinary culpability for members of the armed forces of the Republic of Croatia has been regulated by military discipline regulations. However, due to the need to coordinate these with the provisions of the Law on Armed Forces Service, a new Armed Forces Code of Conduct has been adopted. This new code has been coordinated with effective legislation of the Republic of Croatia and international conventions, especially those regarding the protection of human rights. This has proved to be an important factor in establishing normative conditions for determining responsibility regarding breaches of military discipline in the Croatian armed forces. These conditions are the results of a modern military power governed by relations based on Croatian tradition and the positive experience of armed forces in developed countries.

123. The Armed Forces Code of Conduct regulates the following fundamental issues: disciplinary measures and sanctions; authority for determining culpability for disciplinary breaches; institution and undertaking of disciplinary procedure; evaluation of the regularity of disciplinary measures, appeal procedures, implementation of disciplinary measures; authority for determining culpability for disciplinary offences; institution and implementation of disciplinary procedure regarding disciplinary offences; procedure regarding legal remedies; procedure for reducing, moderating or annulling disciplinary measures and sanctions; recording and eliminating disciplinary measures and sanctions, and deciding upon disciplinary culpability in the state of war.

124. It should be mentioned that the Law on Armed Forces Service stipulates that the Commander-in-Chief regulates: military discipline; disciplinary measures and sanctions for breaches of military discipline; authority and the procedure for determining breaches of military discipline; sanctioning with disciplinary measures and implementation thereof; implementation of authority, and organization and performance of military disciplinary tribunals.

Article 12

125. As stated in the previous report, in accordance with the Croatian legal system, the courts, public attorneys, police, ombudsmen and administrative bodies have jurisdiction for proceedings in cases of torture and other cruel, inhuman and degrading punishment and treatment proscribed by the Convention.

126. When implementing methods of coercion, according to Croatian regulations that are based on fundamental democratic standards, the police have to keep in mind that all such treatment has to have the fewest side-effects possible, with the preservation of life and dignity of all being respected. This is the fundamental starting point of police practice.

127. In practice, it is almost impossible to avoid wrong evaluation by authorized officials in all possible situations. But for every such case there is a strict control procedure in view of evaluating the legality of such action.

Article 13

128. If, in the course of utilizing permissible methods of coercion or generally in the course of the police action, there is an incidence of abuse of authority, the civilian has the right, pursuant to article 142 of the Law on Criminal Procedure, to file an appeal within three days to the public attorney responsible for determining the facts and instituting criminal proceedings.

129. If the said public attorney establishes that there is no grounds for prosecution, he/she has to notify the applicant within eight days. The applicant then has the right to institute independent criminal proceedings pursuant to the same procedural provisions. In 1996, the Department of Justice recorded 12 citizens' appeals to the public attorney within the meaning of article 142 of the above-mentioned Act, of which 11 were submitted to the Zagreb county public attorney office and one to the corresponding office in Split.

Article 14

130. In the Republic of Croatia, every person sentenced or found guilty has the right to compensation, within the meaning of article 528 of the Law on Criminal Procedure, in cases of acquittal. In 1996 and the first half of 1997, the Department of Justice did not record a single request for compensation regarding criminal acts against human and civil freedoms and rights.

131. Also pursuant to article 532 of the Law on Criminal Procedure, individuals who have been detained with no criminal charges being brought against them, or who have been acquitted by a court ruling, or individuals who have been serving prison sentence or whose prison sentence has been reduced, or individuals who have been unlawfully imprisoned due to an error by government bodies, or who have been unjustly detained longer, also have the right to compensation. The Department of Justice has recorded a small number of these requests.

132. In the case of the death of the applicant, his/her successors have the right to continue with or file a request for compensation, unless the said applicant revoked the request or unless the statutory limit of three years has expired.

133. If a case concerning an unjustified ruling has been published in the media which has violated the dignity of the said person, the person also has the right to a moral indemnity consisting of publishing a denial of the ruling in the papers or some other form of mass media. In case of the death of a person, this right is inherited by their spouse, children, parents, brothers or sisters. This request has to be submitted to the court within a period of six months from the date of acquittal and is not conditional upon filing a request for compensation.

134. A person unjustifiably convicted or imprisoned and who consequently has been dismissed from work or who has lost his right to social welfare, has the right to the years of service calculated for the period during which employment has been interrupted.

Article 15

135. Pursuant to effective constitutional provisions, the Republic of Croatia does not acknowledge illegally obtained evidence which is also regulated by the Law on Criminal Procedure. This law prohibits the use of evidence obtained by means of coercion, fraud or any other similar means. Moreover, this law prescribes that records of those hearings be excluded from the case before the court hearing commences. However, if a ruling by a criminal court is based on such unlawful evidence, the ruling has to be withdrawn during appeal proceedings.

136. According to the official records of the Department of Justice, approximately 20 per cent of all rulings of county courts are withdrawn per annum, but there are no records concerning cases where rulings are withdrawn on the basis of unlawfully obtained evidence. However, empirical research carried out in 1994 at the Faculty of Law, University of Zagreb, showed that 2 per cent of such cases in the county court of Zagreb (the biggest county court in the Republic of Croatia) were withdrawn, which is regarded as a realistic estimate for the previous year, too.

Article 16

137. Pursuant to democratic practices, while collecting information on a crime, an authorized police official can ask information from the detained or imprisoned individual only if such questioning has been approved by the investigating judge or the head of the institution where the said individual is situated.

138. In view of protecting the freedoms and rights of people and law and order, an authorized official can retain an individual threatening these freedoms and rights for only 24 hours. If the detainee is a foreign national, the appropriate embassy has to be immediately notified.

139. In performing their duties, police officials are authorized to use force (physical force, a truncheon, water spray, firearms, etc.) if they cannot perform their official duties in any other way. The scope and form of such measures of coercion have to comply with the given situation and, before implementing them, police officials have to warn the individual in question. If means of coercion have been used pursuant to the legal framework, the police official is not liable. However, if they have been used illegally, the said police official will be subject to disciplinary measures and criminal responsibility.

140. The Law on Internal Affairs precisely regulates the very sensitive field of the methods of coercion, including a very strictly prescribed use of firearms.

141. Authorized officials may use firearms only in cases that are specifically stated in the Law on Internal Affairs and relate to situations when officials can by no other means: protect the lives of people; prevent the escape of an individual caught while committing a crime which threatens territorial integrity, endangering military and defence capacities; prevent violence stemming from hostile motives towards the Republic of Croatia, armed rebellion, terrorism, destruction of important industrial facilities, violation of territorial integrity; prevent the escape of an individual caught while committing criminal acts of hijacking an aircraft, endangering the security of an aircraft during flight, murder, rape, aggravated theft, violent theft or robbery; prevent the escape of an imprisoned individual or an individual for whom an arrest warrant has been issued on the grounds of committing these crimes; prevent the escape of an individual who has tried to cross the national border illegally in a vehicle and who refuses to act upon the order of the authorized official; respond to a direct assault on his/her own integrity that endangers his/her life, or respond to an attack on any other person or facility that they secure.

142. If the situation makes it possible, prior to the use of firearms, authorized officials have a duty to warn individuals about the possible use of firearms against them or about the use of firearms for the purpose of scaring them. While using firearms, the authorized official is under a duty to preserve the lives of bystanders.